IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6019 OF 2005

Shri. Laxman Tulsiram Pawar
and anr. ... Petitioners

Versus

The State of Maharashtra and Ors. Respondents

Mr. P.N. Joshi for Petitioner.

Mrs. M.P. Thakur, A.G.P. for R. Nos. 1 and 2.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : FEBRUARY 13, 2006

P.C.

. Rule. Heard forthwith.

. It is the case of the Petitioners that their provident fund dues are not being released pursuant to the order of the Collector dated 1.11.2000. We may at the outset point out that the Maharashtra Protection Of Interest Of The Depositors In Various Financial Institutions Act, 1999 has been held to be unconstitutional by this court. The matter is now pending before the Apex Court. Earlier, the Nashik Zilla Grahak Panchayat had filed a petition before this court which amongst others included the

Petitioners being W.P. No. 3554 of 2000 which was disposed of by order dated 23.10.2001. The learned Bench noted the provisions of the Act and disposed of the Petition by directing the State Government to proceed further in accordance with the Act and to take all steps necessary for due and effective implementation of the Act. The State Government in respect of several immovable properties amongst others of the Petitioners, pursuant to the power conferred upon them under Section 5 of the Act has attached those immovable properties. There is no order of attachment of Provident Fund Dues under Section 4 of the Act.

. There is a finding of fact recorded by the designated court also that the provident fund dues have not been attached.

. In that context question arises, whether the Collector who is the competent authority only in respect of the properties which are attached under Section 4 of the Act could have issued any directions in so far as Provident Fund of the Petitioners are concerned. The provisions of the

Section 4 are clear. The power is conferred on the State Government. The State Government till date has taken no steps and consequently the order passed by the Collector dated 1.11.2000 is clearly without authority of law and without jurisdiction and consequently petition will have to be allowed. In the light of that rule made absolute in terms of Prayer Clauses (a), (b) and (c). In the circumstances of the case, there shall be no order as to costs.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)